Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

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Responding to deliberate biological release: the requirements for effective, coordinated international action

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I. Introduction

1. In recent years the BTWC's Article VII has attracted renewed attention by Biological and Toxin Weapons Convention (BTWC) States Parties. This is due in part to the:

(a) repeated use of chemical weapons in Syria, which underscored the complexity of staging an effective international response;

(b) critical importance of advance preparedness;

(c) increasing threat of emerging and re-emerging infectious disease (exemplified by the Ebola outbreak in West Africa);

(d) continued prospect of disease being used as a biological weapon by certain states or terrorist groups; and,

(e) awareness of how ill prepared the world is for a large scale pandemic.

States Parties have submitted several Working Papers on this issue in the 2014 and 2015 Meetings of Experts and the States Parties.

2. At the international organisation (IO) level, no agency has been designated as the lead authority on issues related to deliberate biological releases. The map of all stakeholders potentially involved in preparedness and response to a deliberate bio-event is extremely crowded, and roles and responsibilities are poorly defined. While the BTWC has a theoretical role in providing assistance (via Article VII) and investigating (via Article VI)

following a deliberate biological event, in practice, it lacks the functional capacities to effectively coordinate a response with the pertinent agencies and IOs.

3. Putting the provisions of Article VII into practice in the event of a deliberate release of a biological agent will, of necessity, involve many different government, inter-government and non-government entities working in close collaboration. For this to happen, there are many practical, legal and other complex logistical and operational challenges that will have to be overcome. We have no platform where information and/or recommendations for preparedness and response best practices have been integrated.

4. Studies conducted after the 2014–15 Ebola outbreak strongly indicate that this collaboration will be significantly more complex and challenging than has hitherto been realised.[1] Although the Eighth Review Conference of the BTWC discussed the issue, States Parties failed to agree a course of action to address it. Nonetheless, the Conference stated that "*capabilities to detect, quickly and effectively respond to, and recover from, the alleged use of a biological or toxin weapon need to be in place before they are required*", and stressed a requirement for building on the work already conducted through the intersessional process.[2] This is also a priority for the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction (GP)'s Biological Security Working Group and the Global Health Security Agenda Action Package Respond 2 — Linking Public Health with Law and Multi-sectoral Rapid Response.

5. A conference, sponsored by Global Affairs Canada's Global Partnership Program and the Center for Global Health Science and Security, Georgetown University, Washington DC was hosted by Wilton Park in the United Kingdom in September 2017.[3] This Conference had two main objectives: first it sought to identify how governmental, inter-governmental and non-governmental entities can prepare and effectively implement collaborative action in the event of the use of biological weapons, whether by states or non-state actors, in order to ensure an effective response that contains the outbreak promptly and promotes a quick recovery. And second, the Conference aimed to support the BTWC, GP and GHSA processes by developing tangible, action-oriented recommendations for how coordination of international response can be made more effective. This Working Paper summarises the main results.

6. The Conference looked in detail at three areas to see what specific actions could be identified for taking forward in the near and longer term. These areas were:

(a) Equipment, logistics and operations;

(b) Laboratories, diagnostics and science;

(c) Command and control and coordination.

7. A summary of the key points that emerged during the discussions on these themes follows.

[1] Many lessons learned reports have been written on the outbreak — see Tom Koch, Ebola in West Africa – Lessons we may have learned, International Journal of Epidemiology, Volume 45, Issue 1, 1 February 2016, pages 5–12 for a summary of some of them. A search on Google using the words "2013-2014 Ebola outbreak lessons learned" generated 97,000 hits.

[2] BWC/CONF.VIII/4, Final Document of the Eighth Review Conference, 11 January 2017, paragraph 58 of the Final Declaration noted, "the need for a procedure for assistance by which timely emergency assistance can be provided, including to better identify accessible information on the types of assistance that might be available in order to ensure prompt response and timely emergency and humanitarian assistance by States Parties, if requested in the event of use of biological weapons."

[3] This was a follow-up to a Wilton Park Conference held in 2016, "The 2014-2015 Ebola outbreak: lessons for response to a deliberate event".

Equipment, logistics and operations

- A roster of experts composed of personnel from responsible agencies and other relevant actors, and involving the health, security, law enforcement and humanitarian sectors, ought to be created and meet regularly to address the issues identified in this Working Paper.
- When a biological event occurs, a rapid initial assessment is needed of the situation on the ground in order to determine the nature and extent of the incident and the requirement of a response; this could be provided by first responders already on the ground or an advance Article VII reconnaissance team. In terms of specifying what assistance might be needed the South African template first proposed and then updated in the BTWC intersessional meetings and at the Eighth Review Conference should be adopted.[3]
- Mapping the current potential actual response capabilities in States Parties and in international or non-governmental organizations is a challenging task; an initial attempt to list these is needed.
- There are problems associated with the maintenance of pre-positioned stockpiles of equipment and medical countermeasures — ensuring that items are not time expired requires careful monitoring of inventories. Sorting out transport and distribution create further challenges. Contracts/undertakings for equipment and assistance could be placed with potential suppliers identified in advance. Other key questions are: "Who will guarantee expedited clearance through customs? Who will provide security at the airport, during transit or storage? How will medical countermeasures be moved to the site of the outbreak? Who will move them? How will they be distributed and monitored?"
- Guidance is needed to ensure that a UN Secretary-General's Mechanism (UNSGM) investigation of alleged use and an Article VII assistance mission, which may be running in parallel at some stage or throughout either activity, do not hamper the other's work. Such guidance might focus on ensuring effective information sharing and sustaining complementarity without compromising either operation.
- We need to assess what impact declaring an outbreak to be the result of deliberate release might have on assistance providers — will they leave immediately? How might it affect assistance operations on the ground for those that remain? How might insurance cover affect the decisions of assistance providers? A data base questionnaire for assistance providers to infectious disease outbreaks should contain a clear question on whether assistance will still be provided in the event of deliberate release or if an outbreak if subsequently declared to be deliberate.
- There could be value in drafting a simple mapping guide of the sorts of decisions and actions that would need to be taken and followed in the event of a deliberate release; such a guide could be provided to senior government figures such as Prime Ministers and Health Ministers.
- Assistance measures could usefully be defined to include inter alia: detection equipment, including biosensors, alarm equipment, protective equipment, decontamination equipment and decontaminants, diagnostics, prophylactic and therapeutic medical countermeasures, materials and associated equipment, and exchange of information and technology regarding assistance.

[3] See BWC/CONF.VIII/WP.14, Implementation of Article VII, Submitted by South Africa, 19 November 2017 – paragraph 11.

- The lack of Standard Operating Procedures (SOPs) that depict how best international humanitarian and law enforcement agencies may interact with each other, or how and what type of information may be shared creates further challenges for the smooth and conflict-free development of international response efforts.

Laboratories, diagnostics and science

- It is not clear what needs to be done to address intellectual property issues with genetic sequences obtained from biomedical samples. Who owns these? And what would happen if an event is declared to be the result of a deliberate release — how would this affect a UNSGM IAI?
- Provision of medical countermeasures and good clinical management is context specific and there are clear gaps here in that medical countermeasures are not available for many biological threat agents — who would address the gaps? There would be a need to share national stockpiles, but this may not be easy as states may want to look to the protection of their own populations first.
- How do we deal with medical intelligence acquired during a response to an outbreak? We do not need or require full chains of custody for every biomedical sample as this would interfere with the prompt provision of medical care.
- Whereas a forensic diagnostic capability is not necessary to support a humanitarian response, it would still be important for first responders to be aware of the importance of maintaining potential evidence in the event that an outbreak is subsequently suspected or identified as a deliberate release.
- There is perhaps a role for the UNSGM's expert consultants to help address some of the issues raised under the Laboratories, diagnostics and science heading.
- The WHO's Emerging and Dangerous Pathogens Laboratory Network and its Emerging Disease Clinical Assessment and Response Network are examples of existing capabilities and programmes that are relevant for building an effective response to the deliberate use of biological agents.

Command and control and coordination

- New mathematical models have shown that there could be over 22 million possible outbreak scenarios, all of which are considerably diverse in nature and highly contingent on circumstances. There is little doubt that infectious diseases are highly variable, and that even when dealing with a naturally occurring outbreak, no response and coordination efforts would ever be exactly replicated. Context and type of agents are highly influential on the characteristics of the outbreak, and thus the characteristics of response.
- There is no need to re-invent concepts and approaches as key principles and doctrines already exist in national response plans for natural disease outbreaks and are directly relevant for guiding an effective international response to a deliberate release of a biological agent. The way a major incident is addressed through how one best organises a response to contain and mitigate the effects is likely to be the same. The WHO's Emergency Response Framework 2 and 21 Days Pocket Guide for Acute Emergencies is an example of relevant guidance available at the level of international organizations.
- Coordination amongst IOs could be rendered very complex following a deliberate act, and the United Nations (UN) system would have very little capacity overall to respond to a natural outbreak in a non-permissive environment or to a deliberate outbreak. A coordinating body is essential and should be established with

representatives from all relevant agencies involved in the response — an international operations centre would be needed to collect information and coordinate the response on the ground — a baseline assessment of the situation on the ground is needed promptly. (See also first and second bullet in the section on equipment, logistics and operations.

- A glossary of terms could be useful as there is no universal understanding of what key concepts and phrases mean — for example, there are differing interpretations of what an 'investigation' means: it can vary from event to event, which will have implications for its conduct and how it is perceived — is it about establishing facts and/or determining responsibility? Is it about examining the epidemiological and clinical aspects of an outbreak or establishing if biological weapons have been used?

- Cooperation and coordination between humanitarian or medical response actors and those involved in the criminal aspects of the investigations might pose serious practical challenges and trade-offs that require careful examination. Agencies and organizations with humanitarian mandates have access to medical, epidemiological, and other patient data that would undoubtedly be useful to a criminal investigation in the case of a deliberate event. However, such information sharing could jeopardize confidence and trust in those organisations' neutral mandates, as well as their confidentiality obligations. If NGOs and other humanitarian aid oriented agencies, like the World Health Organization (WHO), appear to be working alongside law enforcement or security teams, their access to affected populations may be impacted negatively, which would hinder the effectiveness of the response efforts.

II. Conclusions

8. There are six main areas relevant to the shaping of an effective response to deliberate biological release: preparedness, detection, reporting, response, recovery and governance. There is much to do in both the short and long term in each of these areas. Exactly how we go about operationalizing Article VII is a continuing challenge. Mapping capabilities and capacities relevant for ensuring an effective response to a deliberate release of a biological agent is a priority action.

9. Many capabilities, capacities and programmes are already in place. We are not starting from a blank canvas. It is also about building on existing efforts – expanding and modifying these where necessary, while avoiding duplication. It is also about coordination of effort – pulling together the diverse and often separate capabilities and capacities that exist or are being developed. Building on these existing efforts is a key but difficult task ahead.

10. Logistical support is critical as without it there is no effective response. The international community now needs to develop a work plan, drawing on the outcome and recommendations of this conference and taking into account other on-going efforts such as the G8/8A Action Package 2 Response, the work of the WHO and of the Global Partnership. And to initiate and drive this work plan forward we need to establish an informal group of experts to take the lead on discrete issues.

11. This Wilton Park meeting gathered experts from different fields, with different perspectives and experiences, to start a practical and thorough discussion on how IOs and their member states can effectively come together to implement collaborative action in the event of the use of a biological weapon. Participants identified a large number of interconnected challenges, and recognised that this meeting would be the first of many more to come. In this regard, the Government of Canada has identified *strengthening global*

mechanisms for responding to deliberate use of disease as a priority for its 2018 Presidency of the 31-member Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.